



BILLING CODE: 4810-AM-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of Proposed Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, herein referred to as the Consumer Financial Protection Bureau (“CFPB”) or the “Bureau”, gives notice of the establishment of a Privacy Act System of Records.

DATES: Comments must be received no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. The new system of records will be effective [INSERT DATE 40 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*] unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments by any of the following methods:

- *Electronic:* privacy@cfpb.gov
- *Mail or Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer,
Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 20552.

Comments will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202)

435-7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 20552, (202) 435-7220.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Act”), Public Law No. 111-203, Title X, established the CFPB. The CFPB administers, enforces, and implements federal consumer financial law, and, among other powers, has authority to protect consumers from unfair, deceptive, abusive, and discriminatory practices when obtaining consumer financial products or services. The CFPB will maintain the records covered by this notice.

The new system of records described in this notice, CFPB.018 – Litigation Files will track and store electronic information, including both imaged and paper documents, to allow the Bureau to represent itself and its components in court cases and administrative proceedings.

The report of a new system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A-130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” dated November 30, 2000, and the Privacy Act, 5 U.S.C. 552a(r).

The system of records entitled, “CFPB.018–Litigation Files” is published in its entirety below.

Date: May 4, 2012.

Claire Stapleton,
Chief Privacy Officer.

CFPB.018

System Name:

Litigation Files

System Location:

Consumer Financial Protection Bureau, 1700 G Street NW, Washington DC, 20552.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include, but are not limited to: (1) individuals who are involved in litigation with the Bureau or the United States (regarding matters within the jurisdiction of the Bureau) either as plaintiffs or as defendants in both civil and criminal matters; (2) individuals who are involved in litigation regarding matters within the jurisdiction of the Bureau, either as plaintiffs or as defendants, in which the Bureau becomes involved as an amicus curiae or intervener; (3) individuals who either file administrative complaints against the Bureau or are the subjects of administrative complaints initiated by the Bureau; (4) CFPB or other federal employees whose duties are related to litigation activities; (5) participants in CFPB referrals, investigations, rulemaking, advisory, and law enforcement proceedings; (6) parties requesting formal

advisory opinions; (7) parties involved in a contract claim or bid protest; and (8) parties who request review by the Bureau or other federal agencies of potential settlements under the Class Action Fairness Act (“CAFA”). Information collected regarding consumer products and services is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other business entities and aggregate, non-identifiable information is not subject to the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system contain information pertaining to the subject matter of the litigation, administrative complaint, or adverse personnel action as well as records generated during the process of creating the litigation function of the Bureau. Such records may include complaints, litigation reports, administrative transcripts, various litigation documents, investigative materials, correspondence, briefs, court orders and judgments, affidavits and other statements from witnesses, internal staff memoranda, interview notes, investigative notes, staff working papers, draft materials, and other related documents and records, correspondence and internal status reports including matter initiation reports and closing reports.

Records maintained in the system may contain: identifiable information about individuals such as name, address, email address, phone number, social security number, employment status, age, date of birth, financial information, credit information, and personal history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. No. 111-203, Title X, Section 1012, codified at 12 U.S.C. § 5492, and Section 1054, codified at 12 U.S.C. § 5564.

PURPOSE(S):

This system will track and store electronic information, including imaged and paper documents, to allow the Bureau to represent itself and its components in court cases and administrative proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the CFPB Disclosure of Records and Information Rules, promulgated at 12 CFR part 1070 *et seq.*, to:

- (1) Appropriate agencies, entities, and persons when: (a) the CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;
- (2) Another federal or state agency to: (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency; or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;

- (3) The Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;
- (4) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;
- (5) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the CFPB or Federal Government and who have a need to access the information in the performance of their duties or activities;
- (6) The U.S. Department of Justice ("DOJ") for its use in providing legal advice to the CFPB, or in representing the CFPB in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the CFPB to be relevant and necessary to the advice or proceeding, and in the case of a proceeding, such proceeding names as a party in interest:
 - (a) The CFPB;
 - (b) Any employee of the CFPB in his or her official capacity;
 - (c) Any employee of the CFPB in his or her individual capacity where DOJ or the CFPB has agreed to represent the employee; or
 - (d) The United States, where the CFPB determines that litigation is likely to affect the CFPB or any of its components;
- (7) The Federal Trade Commission ("FTC") or other federal banking agencies, for their use in providing legal advice to the CFPB, where the use of such information

- by these agencies is deemed by the CFPB to be relevant and necessary to the Bureau's involvement in a proceeding as a party, amicus curiae or intervener;
- (8) DOJ, the FTC, or other federal banking agencies, in connection with the CFPB's or these agencies' review of CAFA notices that the CFPB has received;
 - (9) A grand jury pursuant either to a federal or state grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court. In those cases where the Federal Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge;
 - (10) A court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;
 - (11) Appropriate agencies, entities, and persons, including but not limited to potential expert witnesses or witnesses in the course of investigations, to the extent necessary to secure information relevant to the investigation;
 - (12) Appropriate federal, state, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license; and

- (13) Officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPENSING OF RECORDS IN THE SYSTEM: Storage:

Records maintained in this system are stored electronically and in file folders. Paper copies of individual records are made by the authorized CFPB staff.

RETRIEVABILITY:

Records are retrievable by a variety of fields including, without limitation, name of the individual involved in a case, address, account number, social security number, phone number, date of birth, or by some combination thereof.

SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

The CFPB will maintain computer and paper records indefinitely until the National Archives and Records Administration approves the CFPB's records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Consumer Financial Protection Bureau, Assistant General Counsel for Litigation, Office of General Counsel, 1700 G Street, NW, Washington, DC 20552.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing in Title 12, Chapter 10 of the CFR, "Disclosure of Records and Information." Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street, NW, Washington, DC 20552.

RECORD ACCESS PROCEDURE:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Information in this system is obtained from individuals who are involved in litigation, including CFPB or other federal employees, participants in CFPB investigations, rulemaking, advisory, and law enforcement proceedings and those requesting formal advisory opinions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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